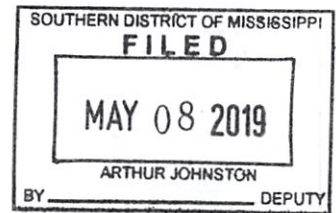


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION



UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL ACTION NO. 1:19cv271 LG-RHW

HONG & MEN III, L.L.C.
and SI V. VO

DEFENDANTS

COMPLAINT

The United States of America, by and through D. Michael Hurst, Jr., United States Attorney for the Southern District of Mississippi, and J. Wesley Webb, Assistant United States Attorney for said District, brings this complaint against Defendants Hong & Men III, L.L.C., and Si V. Vo for the recovery of a civil penalty, alleging as follows:

INTRODUCTION

1. This is a civil action brought by the United States of America against Defendants Hong & Men III, L.L.C. and Si V. Vo to enforce a civil penalty by the U. S. Department of Commerce, North American Oceanic and Atmospheric Administration ("NOAA").

JURISDICTION AND VENUE

2. This Court has jurisdiction over an action commenced by the United States of America under 28 U.S.C. § 1345.

3. Venue is proper in the Southern District of Mississippi because the principal operating office of Defendants is located in Gautier, Mississippi, a location within this district.

PARTIES

4. The Plaintiff is the United States of America.

5. NOAA is an American scientific agency within the United States Department of Commerce that focuses on the conditions of the oceans, major waterways, and the atmosphere.

6. Defendant Hong & Men, III, LLC is a limited liability corporation, incorporated in the State of Mississippi for the purpose of shellfish fishing, business ID: 982147. and Si V. Vo is a fisherman, doing business with Hong & Men, III, LLC. Hong & Men, III, LLC is located at 3913 Players Cove, Gautier, MS 39553.

GENERAL FACTUAL ALLEGATIONS

7. On or about February 16, 2011, Hong and Men, III, LLC (owner) and Si V. Vo (operator), of the F/V ANDY & JOHNNY, JR. did engage in an activity for which a valid Federal permit, license, or endorsement is required (fishing for shrimp in the Gulf EEP) without such permit, license, or endorsement, in violation of 16 U.S.C. 1857(1)(A) and 50 C.F.R. 622.7(a) (renumbered as 622.13(a)).

8. On or about February 16, 2011, Hong and Men, III, LLC (owner) and Si V. Vo (operator), of the F/V ANDY & JOHNNY, JR. did possess or fail to comply with the release requirements of red drum, a prohibited species, in violation of 16 U.S.C. 1857(1)(A) and 50 C.F.R. 622.7(k) (renumbered as 622.13(m)).

9. On May 16, 2014, NOAA sent the debtor the attached Notice of Violation and Assessment of Administrative Penalty, listing two violations and related penalty amounts, pursuant to 16 U.S.C. 1857(1)(A).

10. Count 1 listed an \$18,800.00 assessment for violation of watercraft licensing requirements under 50 C.F.R. 622.13(a).

11. Count 2 assessed a \$2,000.00 penalty for violation of regulations at 50 C.F.R. 622.7(k) requiring the return of specified caught species to the water.

12. The May 16, 2014 Notice provided the debtor with thirty (30) days to either repay the \$20,800.00 assessment, or request a repayment plan or hearing, before the penalty became a

final order. According to NOAA records, the co-debtors did not respond to this notice and did not pursue any of these options.

CLAIM FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants, as follows:

A. Defendants Hong & Men, III, L.L.C. and Si V. Vo owe the United States of America the principal sum of \$20,800.00, plus interest, as more fully set forth on the Certificate of Indebtedness attached hereto as Exhibit "A".

B. Due demand has been made for payment.

C. The Plaintiff United States of America demands judgment against Defendants Hong & Men III, L.L.C. and Si V. Vo, as follows:

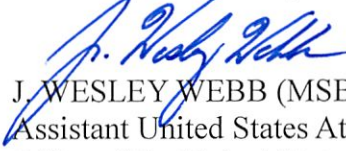
- i. In the amount of \$36,952.21 (\$20,800.00 principal and \$904.18 in interest accrued through January 31, 2019) and total administrative costs \$15,248.03.
- ii. Interest to accrue at the legal rate to date of judgment, as well as, interest from the date of judgment at the legal rate until paid in full.
- iii. Filing fee costs in the amount of \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee) in favor of Plaintiff, pursuant to 28 U.S.C. § 2412(a)(2); and;
- iv. for such other good and proper relief as this Court may deem just.

DATED: May 6, 2019.

Respectfully submitted,

D. MICHAEL HURST, JR.
United States Attorney

BY:


J. WESLEY WEBB (MSB #104495)
Assistant United States Attorney
Office of the United States Attorney
SOUTHERN DISTRICT OF MISSISSIPPI
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JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
J. Wesley Webb, AUSA, U.S.A.O.
501 East Court Street, Suite 4.430
Jackson, MS 39201 (601) 965-448

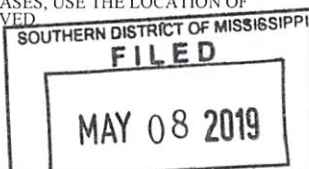
DEFENDANTS

HONG & MEN III, L.L.C. and SI V. VO

County of Residence of First Listed Defendant Jackson
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED

Attorneys (If Known)



II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box Only) (For Diversity Cases Only)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. 3701 et seq.

Brief description of cause:
Recovery of civil penalty

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
36,952.21

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
05/06/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE